IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12110 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KETAN LAXMANBHAI KHAWAS

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

MR SAMIR DAVE AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/01/2001

ORAL JUDGEMENT

#. This petition, under Article 226 of the Constitution of India, is directed by the petitioner - Ketan Laxmanbhai Khawas, at present under detention in Porbandar Special Jail, Porbandar, against the order dated 13.9.2000 of the Commissioner of Police, Rajkot

City, Rajkot, passed in exercise of powers conferred under sub-section 1 of Section 3 of the Gujarat Prevention of Anti Social Activities Act, 1985, ordering to detain the petitioner as a `bootleggar'.

#. Challenging this order, the learned counsel for the petitioner raised mainifold contentions in this petition but as this petition deserves to be allowed only on one ground, it is not necessary to refer to, discuss and decide all those contentions. In paragraph 9 of the special civil application, it is grievanced that the respondent-detaining authority has not supplied all the statements of the witnesses which are recorded under Section 161 of Cr.P.C. and therefore, the right of making effecitive representation agaisnt the detention order as conferred upon the detenue under Article 22(5) of the Constitution of India has been denied. Reply to the special civil application has not been filed and this position has not been disputed by the learned counsel for the respondents. The learend counsel for the respondents also fairly conceded that copies of the statemetns of witnesses recorded u/s.161 of CR.P.C. have not been given to the petitioner. In view of this factual aspect as well as the concession made by the learned counsel for the resopndents, it is a case where right to make effective representation as conferred upon teh petitioner under Article 22(5) of the Constutition has been denied.
#. As a result of aforesaid discussion, this special civil application succeeds the order dated 13.9.2000 passed by the Commissioner of Police, Rajkot City, Rajkot, detaining the petitioner as a `bootleggar' is quashed and set aside and the petitioner - Ketan Laxmanbhai Khawas, detenue, at present detained at Porbandar Special Jail, Porbandar, be set at liberty forthwith if he is not required in any other case. Rule is made absolute. No order as to costs.
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(sunil)